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8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 ADVANCED ADVISORS, G.P.,
12 Plaintiff,

Case No. 2:14-cv-1420 JAK(SSx)

13 v.

14 STEPHEN BERMAN, an individual et.
15 al.; Defendants.
and
16 JAKKS PACIFIC, INC.,
17 Nominal Defendant.

18 THE VLADIMIR GUSINSKY LIVING
19 TRUST,

20 Plaintiff,

21 v.

22 STEPHEN BERMAN, an individual et.
23 al.; Defendants.
and
24 JAKKS PACIFIC, INC.,
25 Nominal Defendant.

Case No. 2:15-cv-02027- JAK(SSx)

**NOTICE OF MOTION AND
MOTION TO CONSOLIDATE;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

**Date: April 23, 2015
Time: 8:30 a.m.
Place: Courtroom 750**

JURY TRIAL DEMANDED

1 **TO THE HONORABLE COURT, ALL PARTIES AND THEIR
2 COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that on April 23, 2015 at 8:30 a.m. in Department
4 750 of the above-captioned Court located at 255 East Temple Street, Los Angeles,
5 CA 90012, the Honorable John A. Kronstadt presiding, Plaintiffs in the above-
6 captioned cases, Advanced Advisors, G.P. (“Advanced Advisors”) the Louisiana
7 Municipal Police Employees Retirement System (“LMPERS”) and The Vladimir
8 Gusinsky Living Trust (the “Gusinsky Trust”) (collectively, “Plaintiffs”), will and
9 do hereby respectfully move the Court to consolidate Case No. 2:14-cv-1420
10 JAK(SSx) and Case No. 2:15-cv-02027-JAK(SSx) for all purposes pursuant to
11 Federal Rule of Civil Procedure 42(a).

12 This motion is made following the conference of counsel pursuant to L.R. 7-3
13 which took place on March 24, 2015. Counsel for defendants Stephen Berman,
14 Michael G. Miller, Murray L. Skala, Robert E. Glick, Marvin Ellin, Dan Almagor,
15 Leigh Anne Brodsky, and Peter F. Reilly (collectively “Defendants”), and nominal
16 defendant JAKKS Pacific, Inc. (“JAKKS”), have informed Plaintiffs’ counsel that
17 they do not oppose this motion (“Motion”).

18 The Motion is based on this Notice of Motion, the attached memorandum of
19 points and authorities, all pleadings, records and files in this action, and on such
20 evidence that may be presented at or before the time of hearing.

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22 Dated: March 26, 2015

LAW OFFICES OF DAVID N. LAKE

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By: /s/

25 David N. Lake
26 *Plaintiffs’ Liaison Counsel*

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26 Gusinsky Living Trust

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MEMORANDUM OF POINTS AND AUTHORITIES

In support of their Motion To Consolidate, Advanced Advisors, G.P. (“Advanced Advisors”) the Louisiana Municipal Police Employees Retirement System (“LMPERS”) and The Vladimir Gusinsky Living Trust (the “Gusinsky Trust”)(collectively, “Plaintiffs”), hereby respectfully submit this memorandum of points and authorities.

I. INTRODUCTION

By this unopposed motion, Plaintiffs ask the Court to consolidate Case No. 2:14-cv-1420 JAK(SSx) and Case No. 2:15-cv-02027 JAK(SSx) for all purposes pursuant to Federal Rule of Civil Procedure 42(a).

II. FACTS

The above-captioned cases are both shareholder derivative actions brought for the benefit of nominal defendant JAKKS Pacific, Inc. (“JAKKS” or the “Company”) against certain present and former members of JAKKS’ Board of Directors (the “Director Defendants”) and involve substantially identical issues of law and fact. On March 24, 2015, Case No. 2:15-cv-02027 TJH(ASx) was transferred to Judge Kronstadt under General Order 14-03.

In substance, the complaints allege that the Director Defendants, in an attempt to entrench themselves, enacted a shareholder rights plan and a stock buy-back program that prevented a buy-out of the Company at an advantageous price. This Court, by order dated September 17, 2014, denied Defendants' motion to dismiss claims for breach of fiduciary duty relating to the shareholder rights plan and the stock buyback and dismissed certain other claims.

On March 23, 2015 the parties entered into a Stipulation of Settlement as to all claims in the *Advanced Advisors* and *Gusinsky Trust* actions and have requested the Court to approve a Notice and set a date for a final approval hearing.

1 **III. ARGUMENT**

2 **A. These Cases Should Be Consolidated**

3 Under Federal Rule of Civil Procedure 42(a), actions that “involve a common
 4 question of law or fact” may be consolidated. *See also* General Order 08-05
 5 Paragraph 5.1.1(a)-(b) (cases are related where they “arise from the same or a
 6 closely related transaction, happening, or event;” or “call for determination of the
 7 same or substantially related or similar questions of law and fact.”).

8 Here, the complaints in the two above-captioned actions involve the same
 9 defendants. Both complaints allege substantially the same facts, including
 10 allegations that the Board acted improperly to entrench itself and that the Board
 11 breached their fiduciary duties.

12 As set forth in Plaintiff’s points and authorities in support of preliminary
 13 approval of the settlement, Docket # 87, Defendants moved for judgment on the
 14 pleadings as they allege that LMPERs no longer has standing and there is a lack of
 15 complete diversity between Advanced Advisors and the remaining defendants.
 16 Plaintiff, Gusinsky Trust, has owned JAKKS shares at all relevant times and is a
 17 citizen of the state of Illinois, which is completely diverse from all defendants.
 18 Consolidation will not affect diversity jurisdiction¹.

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22 ¹ *See Schnabel v. Lui*, 302 F.3d 1023, 1036 (9th Cir. Cal. 2002); *Continental Airlines v. Goodyear Tire & Rubber Co.*, 819 F.2d 1519, 1523 n.1 (9th Cir. 1987); *Cella v. Togum Constructeur Ensembleier en Industrie Alimentaire*, 173 F.3d 909, 913 (3d Cir. 1999)(holding that complete diversity existed “even after consolidation”); *Chaara v. Intel Corp.*, 410 F. Supp. 2d 1080, 1094 (D.N.M. 2005) (noting that “[a]lmost all cases concerning consolidation have determined that separately filed cases retain their separate characters despite consolidation” and that the Fifth and Tenth Circuits in particular had “indicated ... that consolidated cases should be treated separately for the purpose of determining jurisdiction.”), aff’d, 245 F. App’x 784 (10th Cir. 2007).

1 **IV. CONCLUSION**

2 For all the foregoing reasons, Plaintiffs respectfully request that the Court
3 consolidate Case No. 2:14-cv-1420 JAK(SSx) and Case No. 2:15-cv-02027
4 JAK(SSx) for all purposes.

5 Dated: March 26, 2015

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By: /s/

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